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EXAMINER
WINSTON III, EDWARD B

ART UNIT	PAPER NUMBER
3686	

NOTIFICATION DATE	DELIVERY MODE
06/24/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dcmailroom@hdp.com
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PTOL-90A (Rev. 04/07)

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 March 2010</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-19 and 22-30</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-19 and 22-30</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   The following Office action in response to communications received March 23, 2010.

Claims 1 and 29 have been amended and claims 20 and 21 have been canceled. Therefore, claims

1-19 and 22-30 are pending and addressed below.

2.   Applicant's amendments to the claims are sufficient to overcome the *35 USC § 101*

rejections set forth in the previous office action dated December 23, 2009.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 and 22-30 are rejected under 35 U.S.C. 102(e) as being anticipated by

Sabol et al. (US 2004/0122719).

CLAIM 1.

Sabol et al. teach(s) a method for the quality evaluation of electronically stored, knowledge data

the method comprising:

- storing knowledge data in a database <u>of a memory;</u> and correlating quality data with the

  knowledge data stored in the database, <u>where correlating includes,</u> a user at least one of

  storing the quality data in the database at least one of during and after access to the

  knowledge data, and storing result data (see at least Paragraph 0004, i.e. prescribable

  data) from <u>an</u> application of <u>the</u> knowledge data in a result database and correlating

  quality data with the result data, the application of the knowledge data being

  automatically generated and stored in the database, and the quality data automatically

  being provided to the user, <u>upon the user accessing the knowledge data, wherein the</u>

  <u>quality data indicates a content quality of the knowledge data stored in the database.</u> (see

  at least Figure 1, Paragraph 0061 and 0079)

CLAIM 2.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the user applies the knowledge data, and quality data correlated with the results

  of the application are stored in the database (see at least Figure 1, Paragraph 0061 and

  0079).

CLAIM 3.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein quality criteria correlated with the knowledge data are stored in the database (see
  at least Paragraph 0079 and 0297).

CLAIM 4.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein an identification of the user is assigned to the quality data and stored in the
  database (see at least Paragraph 0335 and 0342).

CLAIM 5.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the user determines quality data with a time delay after application of the
  knowledge data, and the user is automatically requested to store the quality data in the
  database (see at least Paragraph 0072, wherein archive module 84 permits the raw, semi-
  processed, and processed data to be stored either locally at the acquisition system or
  resource, or remote therefrom, such as in a database, repository, archiving system (e.g.
  PACS), and so forth.)

Examiner notes that Paragraph [0032] states that the user determines quality data with a time delay.

CLAIM 6.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the result database is at least one of an electronic patient database and an electronic hospital information system, and patient outcome data are stored as result data in the result database (see at least Figure 1, Paragraph 0061 and 0079).

CLAIM 7.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein quality data are determined from the result database according to quality criteria, and the quality data are stored in the database (see at least Figure 1, Paragraph 0061 and 0079).

CLAIM 8.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein quality data are determined from the result database according to the quality criteria with a time delay, and an access path to the result database is assigned to the quality criterion (see at least Figure 1, Paragraph 0061, 0072 and 0079).

CLAIM 9.

Sabol et al. further teach(s) a method claimed in claim 8:

- wherein a result database denoted by the access path is automatically checked for the presence of the result data assigned to the quality criteria (analysis of data), and when the result data are present, quality data are generated from them according to the quality criteria and stored in the database.

    (see at least Paragraph 0079)

CLAIM 10.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein a quality measure is determined as quality data, and a determination instruction for the quality measure is stored in the database.

    (see at least Paragraph 0079)

CLAIM 11.

Sabol et al. further teach(s) a method claimed in claim 10:

- wherein the determination instruction is at least one of a formula and an expert rule (see at least Paragraph 0408).

CLAIM 12.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein different users use the same knowledge data and quality data assigned to the users are determined therefrom, and a ranking of the success rate of the users is calculated from the quality data (see at least Paragraph 0332 and 0417).

CLAIM 13.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein comparable knowledge data are used and quality data assigned to the knowledge data are determined therefrom, and a ranking of the quality of the knowledge data is calculated from the quality data (see at least Paragraph 0332 and 0417).

CLAIM 14.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein knowledge data are released for use by the user only after the user has assigned
  their identification to the knowledge data or an access path for result data from the use of
  the knowledge data (see at least Paragraph 0342). (see at least Figure 1-3, Paragraph
  0061, 0079 and 0342)

CLAIM 15.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein knowledge data are released for use by the user only after the user has paid a fee,
  and the user receives a reimbursement of the fee after storing the quality data (see at least
  Paragraph 0441).

CLAIM 16.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the use of the knowledge data is chargeable to the user, and the quality data, but
  not the assigned knowledge data, is freely viewable by the user (see at least Paragraph
  0441).

CLAIM 17.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the date of the creation of the quality data is stored in the database together with the quality data (see at least Paragraph 0392).

CLAIM 18.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein at least one of medical treatment recommendations advice is stored as knowledge data (see at least Paragraph 0326).

CLAIM 19.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein medical guidelines are stored as knowledge data (see at least Figure 1-3, Paragraph 0061 and 0079).

CLAIMS 20.-21. (canceled)

CLAIM 22.

Sabol et al. further teach(s) a method claimed in claim 2:

- wherein quality criteria correlated with the knowledge data are stored in the database (see
  at least Figure 1-3, Paragraph 0061 and 0079).

CLAIM 23.

Sabol et al. further teach(s) a method claimed in claim 6:

- wherein quality data are determined from the result database according to quality criteria,
  and the quality data are stored in the database (see at least Figure 1-3, Paragraph 0061
  and 0079).

CLAIM 24.

Sabol et al. further teach(s) a method claimed in claim 6:

- wherein quality data are determined from the result database according to the quality
  criteria with a time delay, and an access path to the result database is assigned to the
  quality criterion (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 25.

Sabol et al. further teach(s) a method claimed in claim 7:

- wherein quality data are determined from the result database according to the quality
  criteria with a time delay, and an access path to the result database is assigned to the
  quality criterion (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 26.

Sabol et al. further teach(s) a method claimed in claim 23:

- wherein quality data are determined from the result database according to the quality
  criteria with a time delay, and an access path to the result database is assigned to the
  quality criterion (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 27.

Sabol et al. further teach(s) a method claimed in claim 26:

- wherein a result database denoted by the access path is automatically checked for the
  presence of the result data assigned to the quality criteria, and when the result data are
  present, quality data are generated from them according to the quality criteria and stored

in the database (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 28.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the knowledge data is medical knowledge data (see at least Figure 1-3,

    Paragraph 0061, 0079 and 0342).

CLAIM 29.

Sabol et al. teach(s) a method for quality evaluation of electronically stored knowledge data the

method comprising:

- storing knowledge data in a database <u>of a memory</u>; correlating quality data with the

    knowledge data stored in the database; and automatically providing, upon the user

    accessing the knowledge data, the quality data to the user <u>wherein the quality data</u>

    <u>indicates a content quality of the knowledge data stored in the database</u> (see at least

    Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 30.

Sabol et al. further teach(s) a method claimed in claim 29:

- wherein the knowledge data is medical knowledge data (see at least Figure 1-3,

    Paragraph 0061, 0079 and 0342).

Response to Arguments

Applicant's arguments filed March 11, 2010 have been fully considered but they are not persuasive. In the remarks applicant argues (1) Sabol fails to disclose "correlating quality data with the knowledge data stored in the database" where "the quality data indicates a content quality, of the knowledge data stored in the database," as recited in amended claim 1. Further, Sabol also fails to disclose that the "quality data" is stored "during and after access to the knowledge data", correlating quality data to "an application of the knowledge data," and "the quality data automatically being provided to the user, upon the user accessing the knowledge data," as recited in claim 1.

In response to argument (1), Examiner respectfully disagrees. Examiner understands Applicants claim 1 as merely a database, whether it stores knowledge data or quality data. In addition to the previously mentioned, the prior art of Paragraphs [0053 and 0318] of Sabol teaches resources, designated generally at reference numeral 20, may include application-specific computing devices, general purpose computers, servers, data storage devices, and so forth. In the present context, the general detection string may include processing designed to *identify relevant data* (*quality or knowledge*) or *relationships* (*correlate*) which were not specifically requested by a user, event, patient, data state change or by the system. Such general detection strings may correlate new data in accordance with relationships identified by the data processing system or integrated knowledge base.

Examiner notes for Making Automatic please refer to In re Venner, 120 USPQ 192 (CCPA 1958) In re Rundell, 9 USPQ 220; It is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result.

In re Venner, 120 USPQ 192 (CCPA 1958), In re Smith, 73 USPQ 394 ; If a new combination of old elements is to be patentable, the elements must cooperate in such manner as to produce a new, unobvious, and unexpected result. It must amount to an invention

Conclusion

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWARD WINSTON whose telephone number is (571) 270-7780. The examiner can normally be reached on MONDAY-THURDAY; 9:00AM-6:00PM.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the

organization where this application or proceeding is assigned is (571) 273-8300.

    Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

would like assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/E. W./
Examiner, Art Unit 3686
11 JUNE 2010

                                              /Gerald J. O'Connor/
                                              Supervisory Patent Examiner
                                                Group Art Unit 3686